

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GREGORY McNEILL and WILMA
ARMER, individually and on behalf of all
others similarly situated

Plaintiffs,

v.

OPENMARKET, INC., SPRINT
SPECTRUM, L.P., and NEXTEL WEST
CORPORATION,

Defendants.

No. C 08-1731 RSL

**STIPULATED REQUEST TO
CONTINUE TO STAY PROCEEDINGS
PENDING SETTLEMENT**

Plaintiffs Gregory McNeill and Wilma Armer (collectively “Plaintiffs”) and Defendant OpenMarket, Inc. (“OpenMarket”), hereby stipulate and respectfully request that the Court continue to stay this litigation as to all Defendants (except as noted below), including the obligation to respond to any pending motion or engage in discovery, for an additional 60 days, through and including May 31, 2010. In support of this Stipulation, Plaintiff and OpenMarket state as follows:

WHEREAS, by stipulation filed January 27, 2010 (Dkt. No. 93) and the Court’s Order entered January 28, 2010 (Dkt. No. 95) approving such stipulation, the Court stayed these

1 proceedings and all aspects of this case (except as noted below) to enable Plaintiffs and
2 OpenMarket to focus their efforts on settlement discussions;

3 WHEREAS, Plaintiffs and Defendant OpenMarket have reached a class action settlement
4 in principle (“the OpenMarket Settlement”) which, if finally approved, will resolve Plaintiffs’
5 claims against OpenMarket (as well as at least 10 other lawsuits pending in state and federal
6 courts throughout the country against OpenMarket and its industry partners);

7 WHEREAS, Plaintiff and Defendant OpenMarket are in the process of finalizing the
8 terms of the lengthy settlement papers and anticipate filing papers seeking the preliminary
9 approval of the settlement in an appropriate court by May 15, 2010;

10 WHEREAS, Plaintiff and Defendant OpenMarket seek to continue the stay currently in
11 place so that they may focus their efforts on finalizing the settlement reached in principle without
12 incurring additional fees and costs related to engaging in class and merits based discovery;

13 WHEREAS, Plaintiffs and Defendant OpenMarket do not request a stay with respect to
14 the cross-claims between Sprint Spectrum, L.P., Nextel West Corporation (collectively “Sprint”),
15 and OpenMarket;

16 WHEREAS, continuing the stay will also preserve judicial resources, including the
17 Court’s time in deciding any currently pending or future motions.

18 NOW THEREFORE, Plaintiffs and OpenMarket hereby STIPULATE and AGREE as
19 follows:

20 1. Plaintiffs Gregory McNeill and Wilma Armer and Defendant OpenMarket agree
21 to continue to stay these proceedings and all aspects of Plaintiffs’ case against Defendants,
22 including the obligation to engage in class and merits based discovery, as well as briefing
23 Plaintiffs’ anticipated motion for class certification;

24 2. The stay currently in place shall be extended by an additional sixty (60) days
25 through and including May 31, 2010;

26 3. The stay shall not apply with respect to the cross claims between Sprint and
27 OpenMarket.

4. Plaintiffs and OpenMarket will apprise the Court by June 1, 2010 of the progress of settlement discussions.

IT IS SO STIPULATED.

Dated: April 1, 2010

s/ Cliff Cantor, WSBA # 17893
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s/ Sanket J. Bulsara (admitted pro hac vice)
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Counsel for Defendant OpenMarket, Inc.

Certificate of Service

I certify that, on April 1, 2010, I caused this stipulation and the accompanying proposed order to be filed with the Clerk of the Court via ECF, which will email a copy to all counsel.

s/ Cliff Cantor, WSBA # 17893